

AMENDED IN SENATE MAY 27, 2016

AMENDED IN SENATE MAY 10, 2016

AMENDED IN SENATE APRIL 26, 2016

**SENATE BILL**

**No. 1317**

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**Introduced by Senator Wolk**

February 19, 2016

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An act to add Article 2.10 (commencing with Section 65891) to Chapter 4 of Division 1 of Title 7 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 1317, as amended, Wolk. Groundwater extraction permit.

The California Constitution requires the reasonable and beneficial use of water and that the conservation of the water resources of the state is to be exercised with a view to the reasonable and beneficial use of the water in the interest of the people and for the public welfare. Existing law, the Sustainable Groundwater Management Act, requires all groundwater basins designated as high- or medium-priority basins by the Department of Water Resources and designated as subject to critical conditions of overdraft to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2020, and requires all other groundwater basins designated as high- or medium-priority basins to be managed under a groundwater sustainability plan or coordinated groundwater sustainability plans by January 31, 2022, except as specified.

This bill, by January 1, 2018, would require a city or county overlying a basin designated as a high- or medium-priority basin to establish a process for the issuance of a groundwater extraction permit for the

development of a groundwater extraction facility that requires an applicant for a groundwater extraction permit to demonstrate, based on substantial evidence, that extraction of groundwater from a proposed groundwater extraction facility will not contribute to or create an undesirable result, as prescribed. The bill would prohibit a groundwater extraction facility in a high- or medium-priority basin from being developed without a valid groundwater extraction permit, with certain exceptions. The bill would not require a city or county overlying a medium- or high-priority basin to have a process for the issuance of a groundwater extraction permit for the development of a groundwater extraction facility on or after January 31, 2022, or once the department has evaluated a groundwater sustainability plan for the basin the city or county overlies and determined the plan to be adequate and likely to achieve the sustainability goal for the basin, whichever comes first. By increasing the duties of cities and counties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 2.10 (commencing with Section 65891)  
2 is added to Chapter 4 of Division 1 of Title 7 of the Government  
3 Code, to read:

4  
5 Article 2.10. Aquifer Protection

6  
7 65891. The Legislature finds and declares as follows:

8 (a) Groundwater provides substantial water supplies for many  
9 farms and communities across the state, particularly in drier years.  
10 While in some parts of the state groundwater is very well managed,  
11 in other parts there has been substantial groundwater overdraft.

12 (b) During California's record drought, there has been a  
13 substantial increase in the extraction of groundwater resulting in  
14 impacts to aquifers.

1 (c) In 2014, California adopted landmark legislation, the  
2 Sustainable Groundwater Management Act (Part 2.74 (commencing  
3 with Section 10720) of Division 6 of the Water Code), to  
4 sustainably manage groundwater resources. The act will not be  
5 fully implemented for many years, allowing groundwater overdraft  
6 to continue in some regions.

7 (d) Despite the drought, there has been a substantial and  
8 dramatic increase in conversion of existing pastureland and  
9 nonirrigated lands to new permanent crops irrigated by new deep  
10 groundwater wells. In many parts of the central valley, these new  
11 orchards and groundwater wells have caused or contributed to  
12 existing groundwater wells drying up. These new groundwater  
13 wells exacerbate overdraft in some regions of the state and have  
14 harmed and will continue to harm groundwater supplies for existing  
15 farms and rural communities and the long-term viability of aquifers.

16 (e) A number of new developments also rely on individual new  
17 wells, further stressing overdrafted groundwater basins.

18 (f) The number of new wells supplying significant new demands  
19 for groundwater has resulted in alarming subsidence in many areas  
20 of California. Subsidence threatens statewide resources and  
21 infrastructure such as roads, highways, and aqueducts. Importantly,  
22 subsidence may also cause permanent damage to aquifers,  
23 threatening groundwater resources for future generations.

24 (g) The lack of protection for aquifers, existing groundwater  
25 users, and important infrastructure from the explosive increase in  
26 new wells is an issue of statewide importance and requires  
27 statewide regulation to avoid undesirable results to groundwater  
28 and statewide resources while local communities are working to  
29 comply with the provisions of the Sustainable Groundwater  
30 Management Act. Preventing undesirable results in a high- or  
31 medium-priority basin pursuant to this article and in furtherance  
32 of Section 113 of the Water Code is a matter of statewide concern  
33 and not a municipal affair, as that term is used in Section 5 of  
34 Article XI of the California Constitution. Therefore, this act applies  
35 to charter cities.

36 (h) This act is in furtherance of the policy contained in Section  
37 2 of Article X of the California Constitution.

38 65891.1. As used in this article:

39 (a) “Basin” has the meaning provided in Section 10721 of the  
40 Water Code.

- 1     (b) “Board” means the State Water Resources Control Board.  
2     ~~(b)~~  
3     (c) “Bulletin 118” has the meaning provided in Section 10721  
4     of the Water Code.  
5     ~~(c)~~  
6     (d) “De minimis extractor” has the meaning provided in Section  
7     10721 of the Water Code.  
8     ~~(d)~~  
9     (e) “Department” means the Department of Water Resources.  
10    ~~(e)~~  
11    (f) “Disadvantaged unincorporated community” has the meaning  
12    provided in Section 56033.5.  
13    ~~(f)~~  
14    (g) “Groundwater” has the meaning provided in Section 10721  
15    of the Water Code.  
16    ~~(g)~~  
17    (h) “Groundwater extraction facility” has the meaning provided  
18    in Section 10721 of the Water Code.  
19    ~~(h)~~  
20    (i) “Groundwater sustainability plan” has the meaning provided  
21    in Section 10721 of the Water Code.  
22    ~~(i)~~  
23    (j) “High-priority basin,” “medium-priority basin,” “low-priority  
24    basin,” and “very low priority basin” have the same meaning as  
25    the categorization of a basin by the department pursuant to Section  
26    10722.4 of the Water Code.  
27    ~~(j)~~  
28    (k) “Primary drinking water standards” has the meaning provided  
29    in Section 116275 of the Health and Safety Code.  
30    ~~(k)~~  
31    (l) “Probationary basin” has the meaning provided in Section  
32    10735 of the Water Code.  
33    ~~(l)~~  
34    (m) “Special act water district” means an agency created by  
35    statute to manage groundwater that is the exclusive local agency  
36    within its statutory boundaries with powers to comply with Part  
37    2.74 (commencing with Section 10720) of Division 6 of the Water  
38    Code as described in paragraph (1) of subdivision (c) of Section  
39    10723 of the Water Code.  
40    ~~(m)~~

(n) “Undesirable result” has the meaning provided in Section 10721 of the Water Code.

65891.2. (a) A city or county overlying a basin designated as a high- or medium-priority basin shall do both of the following:

(1) By January 1, 2018, establish a process for the issuance of a groundwater extraction permit for the development of a groundwater extraction facility that requires an applicant for a groundwater extraction permit to demonstrate, based on substantial evidence, that extraction of groundwater from a proposed groundwater extraction facility will not contribute to or create an undesirable result.

(2) Prohibit the issuance of a groundwater extraction permit for a new groundwater extraction facility in either of the following:

(A) A probationary ~~basin~~ *basin, except if the board determines that part of a probationary basin is being adequately managed, in which case the prohibition on the issuance of a groundwater extraction permit for a new groundwater extraction facility shall apply only to those portions of the probationary basin not adequately managed as determined by the board.*

(B) A basin designated in Bulletin 118 as a basin subject to critical conditions of overdraft.

(b) A groundwater extraction permit for the development of a groundwater extraction facility shall not be required for any of the following:

(1) A de minimis extractor.

(2) The replacement of an existing groundwater extraction facility with a new groundwater extraction facility with the same or a lesser extraction capacity. For the purposes of this article, replacement includes the deepening of a groundwater extraction facility.

(3) A groundwater extraction facility constructed to provide drinking water to a water ~~system, if the water system meets both of the following conditions:~~ *system for the purposes of public health.*

~~(A) The system provides water to a disadvantaged unincorporated community.~~

~~(B) The system has received a citation for a violation of primary drinking water standards within the prior two years.~~

(4) A groundwater extraction facility necessary for habitat or wetlands conservation.

1 (5) A groundwater extraction facility necessary for a renewable  
2 energy project such as utility scale solar.

3 (c) A city or county overlying a basin designated as a low- or  
4 very low priority basin may adopt an ordinance establishing a  
5 process for the issuance of groundwater extraction permits for the  
6 development of a groundwater extraction facility in accordance  
7 with this section.

8 (d) A groundwater extraction facility in a high- or  
9 medium-priority basin shall not be developed without a valid  
10 groundwater extraction permit issued pursuant to this section.

11 65891.3. (a) A city or county shall review an application for  
12 a groundwater extraction facility pursuant to the timelines  
13 established in the Permit Streamlining Act (Chapter 4.5  
14 (commencing with Section 65920)).

15 (b) A fee charged by a city or county to review an application  
16 for a groundwater extraction facility shall be determined in  
17 accordance with Sections 66014 and 66016.

18 65891.4. This article does not require a city or county to  
19 establish a new process for the issuance of a groundwater extraction  
20 permit for the development of a groundwater extraction facility if  
21 the city or county has in effect an ordinance adopted before January  
22 1, ~~2017~~, 2018, that imposes conditions on the development of a  
23 new groundwater extraction facility in order to prevent the new  
24 groundwater extraction facility from contributing to or creating  
25 an undesirable result.

26 65891.5. This article does not require a city or county overlying  
27 a medium- or high-priority basin to have a process for the issuance  
28 of a groundwater extraction permit for the development of a  
29 groundwater extraction facility on or after January 31, 2022, or  
30 once the department has evaluated a groundwater sustainability  
31 plan for the basin the city or county overlies and determined the  
32 plan to be adequate and likely to achieve the sustainability goal  
33 for the basin, whichever comes first.

34 65891.6. (a) This article does not apply to a basin for which  
35 a court or the State Water Resources Control Board has adjudicated  
36 the rights to extract groundwater.

37 (b) This article does not apply within the statutory boundaries  
38 of a special act water district.

39 SEC. 2. No reimbursement is required by this act pursuant to  
40 Section 6 of Article XIII B of the California Constitution because

- 1 a local agency or school district has the authority to levy service
- 2 charges, fees, or assessments sufficient to pay for the program or
- 3 level of service mandated by this act, within the meaning of Section
- 4 17556 of the Government Code.

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